THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.14764 of 2007

Date : 12-10-2007

Between :

Kasu Venkataramanaiah @
Venkataramana Reddy s/o.
Chinna Guruvaiah
and others ..
Petitioners

and

The District Collector, Ongole,
Prakasam District and others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.14764 of 2007

ORDER:

1. Heard Smt.Lakshmi Kumari, learned Counsel representing the writ petitioners and the learned Government Pleader for Civil Supplies.

2. This Court ordered Notice before admission on 12-7-2007 and interim order of status quo had been granted for a limited period. W.V.M.P.No.2427/2007 is filed to vacate the interim order.

3. The Writ Petition is filed for a Writ of Mandamus declaring the inaction of the 2nd respondent with regard to disposing of appeal filed under Section 6C of Essential Commodities Act as illegal arbitrary and violative of Article 300-A of the Constitution of India and consequently to direct the 2nd respondent to dispose of

the Appeal in Rc.CS1/6-A/53/2007 filed by the petitioners and to pass such other suitable orders.

4. It is stated by the writ petitioners that they are residents of Mittapalem village owning agricultural lands each having Acs.05-00 of wet land and they raised paddy crop in it. After harvesting in the month of March, they kept the paddy crop about 500 bags in a rented premises and they are waiting for good price for selling in the market. The petitioners wanted to sell the rice to shops for getting more price and they got milled the said paddy and kept the same about 335 bags of rice in the said premises. Due to village politics, some of the persons made false complaint against the petitioners to the 3rd respondent based on the false complaint without any local enquiry, came to the said premises on 27-5-2007 and seized the said stock saying that M.Subba Rao of Kanigiri was told unauthorisedly and it was further alleged that it was public distribution system rice and without conducting any enquiry and without giving opportunity to hear the petitioners seized the rice arbitrarily and in gross violation of the principles of natural justice. It is further stated that questioning the said confiscation proceedings passed in Section 6-A of the Essential Commodities Act, they preferred an appeal in

Rc.CS1/6-A/53-2007 under Section 6C of the Essential Commodities Act before the 2nd respondent on 25-6-2007. The 2nd respondent had not passed any order on the said Appeal and the same is pending. Again, the petitioners made an application seeking to release the seized stock on 6-7-2007 and the said application also is pending. In such circumstances, the writ petitioners approached this Court by filing the present Writ Petition.

5. It is stated in para-2 of the counter affidavit that on receipt of credible information that P.D.S. rice are stored unauthorisedly in Mittapalem village of H.M.Padu Mandal, the Tahsildar H.M.Padu surprised the said village on 27-5-2007 and found 335 bags of P.D.S. rice in repacked white plastic bags in H.No.1-48(1). During the enquiry with the house owner and with the elders of the village, it was revealed that one M.Subba Rao of Kanigiri had stored the said rice unauthorisedly and doing clandestine business with P.D.S. rice and hence the Tahsildar, H.M. Padu seized the available stocks of Q.166.20 Kgs. of rice under cover of Panchanama and filed a report under Section 6A of the Essential Commodities Act 1955. Further, it is stated that it is not correct as contended by the petitioners that the seized rice is the stock derived from their agricultural paddy

harvested in their own lands. At the time of enquiry or after seizure of stocks, the petitioners had not produced any evidence that the seized stocks are only the derived stocks from their own lands. The contention of the petitioners that they got milled the paddy and kept the same in Mittapalem village is not correct. The petitioners had not produced any substantial evidence to that effect. Further, at the time of enquiry, the Inspecting Officer found 335 bags of empty bags with F.C.I. imprints and the village elders had also categorically stated that one M.Subba Rao of Kanigiri had been storing P.D.S. rice in the said house and transporting the same in the midnight through lorry and hence it is clearly evident that M.Subba Rao of Kanigiri had stored 335 bags of P.D.S. rice unauthorisedly and thereby contravened the provisions of A.P. State P.D.S. (Control) Order 2001. Further, the petitioners had not filed any petition before the 2nd respondent immediately after seizure of the stocks. The petitioners had filed petition only after a lapse of one month of the seizure of stocks which clearly shows that it is an after thought and also to avoid the proceedings under Section 6-A of the Essential commodities Act 1955. The writ petitioners had not submitted the details of survey numbers of lands owned by them, the crops raised by

them, the mill in which the paddy was got milled wit receipts from the miller along with the stay petition. It is also further stated that the proceedings under Section 6A of the Act aforesaid against the petitioners is pending before the 2nd respondent and the 2nd respondent had not passed any confiscation orders yet as contended by the petitioners. The copies of panchanama and other connected papers were supplied to the petitioners. It is also further stated that after seizure of stocks and on filing the proceedings under Section 6-A of the Act, interim disposal orders were issued in Rc.CS1/6A/53/2007 dated 7-6-2007 to distribute the seized stocks to the card holders through Public Distribution System by the Tahsildar since the stocks are subject to speedy and natural decay. Further, the orders were issued on 20-7-2007 to maintain status quo on disposal of the seized stocks in view of the orders of this Court in W.P.No.14764/2007 dated 12-7-2007 and the enquiry is still pending before the Joint Collector. It is also further stated that the according to the guidelines of the Government from time to time, the stocks seized Under Section 6A of the Act cannot be released to the same person on furnishing Bank Guarantee or otherwise the same will defeat the purpose and the spirit of the Essential

commodities Act 1955. Further, it is also stated that the Apex Court while disposing of a petition for Special Leave to Appeal (Civil) No.9337 of 1983 filed by the Government of Andhra Pradesh observed that the High Court was not right in directing the paddy to be released to the respondent where commodities are seized for contravention of the orders made under the Essential commodities Act. The very object of the Act may be frustrated if, pending enquiry, under Section 6-A of the Act, the commodities are released to the very person who is alleged to be guilty of contravention. If the commodity is of a perishable nature, the only proper order that may be made is to order sale of the commodity by the Collector and direct the sale proceeds to be kept in deposit and that would be the most appropriate procedure. It is also further stated that the matter is under enquiry and unless the evidence is provided before the Joint Collector, it would not be possible to complete the proceedings under Section 6-A of the Essential commodities Act.

6. In the light of the specific stand taken by the writ petitioners that the proceedings under Section 6-A of the Essential commodities Act are pending before the 2nd respondent and also in the light of the further stand taken that an application for release also had been moved

before the 2nd respondent, let the 2nd respondent dispose of the Appeal itself within a period of four weeks from the date of receipt of this order. Till then, status quo granted by this Court to be maintained.

7. The Writ Petition is disposed of accordingly. No order as to costs.

Justice P.S.Narayana

Date : 12-10-2007

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